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6 UNITED STATES DISTRICT COURT  
7 WESTERN DISTRICT OF WASHINGTON  
8 AT SEATTLE

9 MARY MONTGOMERY and STEVEN  
10 MONTGOMERY, individually and their  
marital community,

11 Plaintiffs,

12 v.

13 SEARS ROEBUCK & CO., a New York for-  
profit corporation d/b/a SEARS  
14 MERCHANDISE GROUP; U.S. RETAIL  
PARTNERS, LLC, a Delaware limited  
15 liability corporation,

16 Defendants.

C07-1005Z

MINUTE ORDER

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18 The following Minute Order is made by direction of the Court, the Honorable Thomas  
S. Zilly, United States District Judge:

19 (1) Defendants' motions, (docket nos. 91 and 94) to strike the Steven Montgomery  
20 declaration, (docket no. 86), are DENIED. The declaration is based on personal knowledge  
and states facts or opinions the witness may testify to at trial. The defendants' motions (also  
21 contained in docket nos. 91 and 94) to strike references to the ASTM and USDOT standards  
are also DENIED. See Fed. R. Evid. 803(18).

22 (2) Defendants' motions for summary judgment, (docket nos. 73 and 78) and  
23 plaintiffs' cross-motion for partial summary judgment, (docket nos. 88 and 90), are DENIED.  
There are material issues of fact that preclude summary judgment.

24 (3) The Clerk is directed to send a copy of this Minute Order to all counsel of  
25 record.

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Filed and entered this 13th day of February, 2009.

BRUCE RIFKIN, Clerk

s/ Claudia Hawney  
By \_\_\_\_\_  
Claudia Hawney  
Deputy Clerk